UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,746	12/30/2003	Tsutomu Baba	81868.0111	2672

26021   7590   02/23/2009
HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

EXAMINER
PHAM, BRENDA H

ART UNIT	PAPER NUMBER
2416	

MAIL DATE	DELIVERY MODE
02/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

1.   Applicant's arguments filed 01/29/2009 have been fully considered but they are
not persuasive.

Applicant argued in Remark that "Applicant can find no teaching or suggestion in
Nishihara that one skilled in the art should set or determine that packet size in advance
of the time of transmission of the specific packet."

Examiner respectfully disagrees because Nishihara indeed teaches this claimed
limitation. Nishihara teaches "In accordance with a 26th aspect of the present invention,
in the 15th aspect, in the case where the best effort IP packet is packed in the layer 2
frame payload, a best effort IP transfer space length L, which means the length of a
transfer space which can be used for the transfer of the layer 1 frame containing the
best effort IP packet, is determined as $L=CL-SL-AL-PL-BL$.   In the equation, CL
demotes a predetermined length CL corresponding to a predetermined cycle, SL
demotes the length of a layer 1 frame containing an STM signal that is transferred in the
cycle, AL demotes the lengths of one or more layer 1 frames containing ATM cells that
are transferred in the cycle, PL denotes the length of one or more layer 1 frames
containing primary IP packets that are transferred in the cycle, and BL denotes the
length of one or more layer 1 frames containing best effort IP packets that are
transferred in the cycle before the transfer of the layer 1 frame containing the best effort
IP packet" col. 4, lines 55-65. Nishihara teaches a method and system of data transfer
capable of transfer variable-length packets including an STM signal, ATM cells, primary
IP packets and best effort IP packets. Each packet type has a predetermined length,

such as the predetermined length SL denotes an STM signal, the predetermined length AL denotes ATM cells, the predetermined length PL denoted primary IP packets and BL denotes the length of one or more layer 1 frames containing best effort IP packets.

Therefore the limitation "determine the packet size in advance of the time of transmission of the specific packet" is indeed taught by Nishihara.

Applicant further argued that "Nishihara does not appear to have any codes that indicate whether or not a succeeding packet exists. The "frame mode identifier", to which the Examiner points, refers to the sequence of the data in the frame to its position in the layer 2 frame."

The Examiner further disagrees with the argument. Nishihara shows in FIG. 5B a list of code, such as, SINGLE FRAME (00), BOM (01), COM (10) and EOM (11). A BOM frame code (01) indicates one or more (or zero) COM frames and an EOM frame. Therefore, the frame code (01) indicates the presence of the succeeding packet (one or more (or zero) COM frames and an EOM frame. When the frame code is EOM (11) indicates no more frame or (End of Message) frames. This step also shows in one of the embodiment of the invention in step S2206 of FIG. 21.

The Examiner respectfully believes Nishihara discloses all the claimed limitations recited in the claims. Therefore the rejection stands.

2.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

February 16, 2009

/Brenda Pham/

Primary Examiner, Art Unit 2416